

(2) If the patient is not conscious or competent, no personal information except that required by the Freedom of Information Act (5 U.S.C. 552) shall be released until there has been enough improvement in the patient to ensure he or she can give informed consent or a guardian has been appointed legally for the patient and the guardian has given consent on behalf of the patient.

(3) The consent described in paragraph (c)(1) of this section regarding patients who are minors must be given by the parent or legal guardian.

(d) *Information that may be released with individual consent.* (1) Any item of personal information may be released, if the patient has given his or her informed consent to its release.

(2) Releasing medical information about patients shall be done with discretion, so as not to embarrass the patient, his or her family, or the Department of Defense, needlessly.

(e) *Disclosures to other government agencies.* This subpart does not limit the disclosures of personal medical information to other government agencies for use in determining eligibility for special assistance or other benefits.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991]

**§ 310.44 Disclosure accounting.**

(a) *Disclosure accountings.* (1) Keep an accurate record of all disclosures made from any system of records except disclosures:

- (i) To DoD personnel for use in the performance of their official duties; or
- (ii) Under 32 CFR part 286, The DoD Freedom of Information Program.

(2) In all other cases a disclosure accounting is required even if the individual has consented to the disclosure of the information pertaining to him or her.

(3) Disclosure accountings:

- (i) Permit individuals to determine to whom information has been disclosed;
- (ii) Enable the activity to notify past recipients of disputed or corrected information (§ 310.32(i)(1), subpart D); and
- (iii) Provide a method of determining compliance with paragraph (c) of § 310.40.

(b) *Contents of disclosure accountings.* As a minimum, disclosure accounting shall contain:

- (1) The date of the disclosure.
- (2) A description of the information released.
- (3) The purpose of the disclosure.
- (4) The name and address of the person or agency to whom the disclosure was made.

(c) *Methods of disclosure accounting.* Use any system of disclosure accounting that will provide readily the necessary disclosure information (see paragraph (a)(3) of this section).

(d) *Accounting for mass disclosures.* When numerous similar records are released (such as transmittal of payroll checks to a bank), identify the category of records disclosed and include the data required by paragraph (b) of this section in some form that can be used to construct an accounting disclosure record for individual records if required (see paragraph (a)(3) of this section).

(e) *Disposition of disclosure accounting records.* Retain disclosure accounting records for 5 years after the disclosure or the life of the record, whichever is longer.

(f) *Furnishing disclosure accountings to the individual.* (1) Make available to the individual to whom the record pertains all disclosure accountings except when:

- (i) The disclosure has been made to a law enforcement activity under paragraph (i) of § 310.41 and the law enforcement activity has requested that disclosure not be made; or
- (ii) The system of records has been exempted from the requirement to furnish the disclosure accounting under the provisions of § 310.50(b), subpart F.

(2) If disclosure accountings are not maintained with the record and the individual requests access to the accounting, prepare a listing of all disclosures (see paragraph (b) of this section) and provide this to the individual upon request.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991]